

UNITED STATE OF DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL HIRSCH,

Plaintiff,

v.

AZ AUTOMOTIVE CORP.,
a Delaware corporation,

Defendant.

Case: 2:07-cv-10887
Assigned To: Cohn, Avern
Referral Judge: Morgan, Virginia M
Filed: 02-28-2007 At 01:46 PM
CMP HIRSCH V. AZ AUTOMOTIVE CORP (T
AM)

Ralph J. Sirlin (P24635)
REOSTI, JAMES & SIRLIN, P.C.
Attorneys for Plaintiff
23880 Woodward Avenue
Pleasant Ridge, Michigan 48069
(248) 691-4200

COMPLAINT AND JURY DEMAND

Plaintiff, by his attorneys, REOSTI, JAMES & SIRLIN, P.C., complains against Defendant AZ Automotive Corp. as follows:

Parties, Jurisdiction and Venue

1. Plaintiff, Michael Hirsch, (hereinafter "Plaintiff"), is a resident of Warren, Michigan. He was born on February 16, 1949.

2. Plaintiff's last day worked was February 24, 2006. At that time, Plaintiff was employed by Defendant AZ Automotive Corp. (hereinafter "Defendant") in Centerline, Michigan.

3. Defendant is a Delaware corporation with its principle place of business in Centerline, Michigan.

3. The acts complained of took place within the jurisdiction of the Eastern District of Michigan, Southern Division.

4. The amount in controversy exceeds Seventy-Five Thousand (\$75,000) Dollars.

5. This Court has jurisdiction over the subject matter of this Complaint pursuant to the Age Discrimination in Employment Act (ADEA), 29 U.S.C. 621, *et seq.*, and has pendant jurisdiction under the Michigan Elliot-Larsen Civil Rights Act, MCLA 37.2101, *et seq.* (ELRCA).

6. Plaintiff has satisfied all conditions precedent to the filing of this lawsuit in that Plaintiff filed a charge with the Equal Employment Opportunity Commission (EEOC), which, having investigated Plaintiff's charge and issued a Notice of Right to Sue letter dated December 26, 2006.

FACTUAL BACKGROUND

7. Plaintiff was hired as a die maker. Plaintiff remained in this classification until April 2, 1999. At that time, Plaintiff was reassigned to a Tryout/ Troubleshooter die maker.

8. On February 2, 2006, Plaintiff was removed from the Tryout/Troubleshooter classification and reassigned to the die maker classification.

9. At the time of Plaintiff's reclassification, he had the second highest seniority among the die maker Tryout Troubleshooters.

10. Younger die maker Tryout Troubleshooters with less seniority were not reclassified as die makers.

11. On February 24, 2006, Defendant laid off die makers including the Plaintiff.

12. The Defendant reclassified Plaintiff so that he would be laid off instead of younger less qualified die maker Tryout Troubleshooters with less seniority.

COUNT 1 – VIOLATION OF THE ADEA AND THE ELCRA

13. Plaintiff incorporates by reference paragraphs 1 through 12 of his Complaint.

14. Defendant's action in reclassifying Plaintiff so that he would be subject to a layoff was due, to a material extent, to Plaintiff's age in violation of the ADEA and the Michigan ELCRA.

PENDENT JURISDICTION

15. Plaintiff claims based on state law arise out the same facts as his federal claims. Plaintiff requests this Court to take pendent jurisdiction of Plaintiff's state tort claims.

DAMAGES

16. The actions of Defendant described above have caused and will continue to cause Plaintiff the loss of wages, fringe benefits and have caused severe mental and emotional distress, which distress will continue in the future.

WHEREFORE, Plaintiff demands judgment in an amount in excess of \$75,000 adequate to compensate him for his economic and non-economic damages, punitive damages and actual attorney fees and costs. Plaintiff also requests whatever equitable and further relief he may be entitled to.

Respectfully submitted,

REOSTI, JAMES & SIRLIN, P.C.



Ralph J. Sirlin (P24635)
Attorneys for Plaintiff
23880 Woodward Avenue
Pleasant Ridge, Michigan 48069
(248) 691-4200

Date: February 26, 2007

JURY DAMND

Plaintiff hereby demands a jury of his peers within the above-cause.

Respectfully submitted,

REOSTI, JAMES & SIRLIN, P.C.

A handwritten signature in black ink, appearing to read 'R. Sirlin', is written over a horizontal line.

Ralph J. Sirlin (P24635)
Attorneys for Plaintiff
23880 Woodward Avenue
Pleasant Ridge, Michigan 48069
(248) 691-4200

Date: February 26, 2007

JS 44 11/99

CIVIL COVER SHEETCOUNTY IN WHICH THIS ACTION AROSE: MACOMB

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

MICHAEL HIRSCH

(b) County of Residence of First Listed:

MACOMB

(c) Attorneys (Name, Address and Telephone Number)

RALPH J. SIRLIN (P24635)
23880 Woodward Avenue
Pleasant Ridge, MI 48069
(248) 691-4200

DEFENDANTS

AZ AUTOMOTIVE CORP.

MACOMB

County of Residence of First Listed

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

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II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP

(For Diversity)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal of Business in This State ☐ 4 ☐
- Citizen of Another ☐ 2 ☐ 2 Incorporated and Principal of Business in Another State ☐ 5 ☐
- Citizen or Subject of ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐
- Foreign Country

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 180 Other Contract <input type="checkbox"/> 185 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21: 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 480 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 445 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

29 U.S.C. 621, et seq (Age Discrimination); MCLA 37.2101, et seq. (ELCR)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐ DEMAND Greater than \$75,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/26/07

SIGNATURE OF ATTORNEY OF RECORD

RALPH J. SIRLIN

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes:
